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OFFICE OF PETITIONS

In re Application
Wai-Hoi Wong
Application No. 09/981,681
Filed: October 16, 2001
Attorney Docket No. UTSC:727US

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)...," filed February 18, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred nine (409) days to five hundred thirty-one (531) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is five hundred thirty-one (**531**) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 6, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is four hundred nine days. On February 18, 2005, applicants timely¹ submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is five hundred thirty-one (531) days. Applicants dispute the reduction of one hundred twenty-two (122) days attributed to applicant for failing to respond within three months to the Notice to File Missing Parts of Application mailed November 16, 2001.

The Office initially determined a patent term adjustment of four hundred nine (409) days

¹ PALM records indicate that the Issue Fee was received in the Office on March 8, 2005.

based on an adjustment for PTO delay of five hundred thirty-five (535) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) reduced by applicants' delays totaling one hundred twenty-six days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of 535 days and the reduction of 4 days have been reviewed and found to be correct. The reduction of one hundred twenty-two (122) days of applicant delay is at issue.

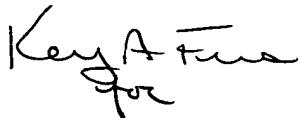
The reduction of 122 days has been found to be incorrect. A review of the application file reveals that, as stated by applicants, their response to the Notice to File Missing Parts of Application mailed November 16, 2001, is of record in the application with a date of receipt by the Office of January 18, 2002. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have entered the date that the instant application was complete as June 18, 2002 or assessed applicants a delay of one hundred twenty-two (122) days. The response was filed within the three-month period under 37 CFR 1.704(b) and accordingly, applicant's delay should have been assessed as zero (0) days. Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is five hundred thirty-one (531) days.

The petition fee in the amount of \$200.00, as set forth in 37 CFR 1.18(e), has been charged to deposit account no.50-1212, per the authorization in the petition. No additional fees are required.

The Office will refer the matter to the Office of Patent Publication so that a patent can be issued.

Telephone inquiries specific to this matter should be directed to Patricia Faison-Ball, Senior Petitions Attorney, at (571) 272-3212.



Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen